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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-904

13 **HIEN TRUNG DANG**
3 Edgehill Way
14 San Rafael, CA 94903
Registered Nurse License No. 739117

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about October 29, 2008, the Board of Registered Nursing issued Registered
22 Nurse License Number 739117 to Hien Trung Dang (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought in this Accusation
24 and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
2 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license.

8 6. Section 118, subdivision (b), of the Code provides that the expiration of a license
9 shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action
10 during the period within which the license may be renewed, restored, reissued or reinstated.

11 **STATUTORY/REGULATORY PROVISIONS**

12 7. Section 2761 of the Code states:

13 "The board may take disciplinary action against a certified or licensed nurse or deny an
14 application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
17 functions."

18 8. California Code of Regulations, title 16, section 1442, states:

19 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
20 the standard of care which, under similar circumstances, would have ordinarily been exercised by
21 a competent registered nurse. Such an extreme departure means the repeated failure to provide
22 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
23 situation which the nurse knew, or should have known, could have jeopardized the client's health
24 or life."

25 9. California Code of Regulations, title 16, section 1443, states:

26 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
27 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
28 exercised by a competent registered nurse as described in Section 1443.5."

1 **COST RECOVERY**

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **DRUGS**

9 11. "Morphine Sulfate" is used to manage moderate to severe pain when a continuous
10 opioid analgesic is needed for an extended period of time. It is a Schedule II controlled substance
11 as designated by Health and Safety Code section 11055, subdivision (b)(1)(M) and is a dangerous
12 drug pursuant to Business and Professions Code section 4022.

13 12. "Fentanyl" (brand name "Sublimaze") is a potent synthetic narcotic analgesic used to
14 treat chronic breakthrough pain. It is a Schedule II controlled substance pursuant to health and
15 Safety Code section 11055, subdivision (c)(8) and a dangerous drug pursuant to Business and
16 Professions Code section 4022.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Gross Negligence)**

19 13. Respondent has subjected his license to disciplinary action under section 2761,
20 subdivision (a)(1), on the grounds of gross negligence in that on or between November 11, 2008
21 and July 21, 2009, while employed as a registered nurse at Country Villa Health Care Center, in
22 San Rafael, California, Respondent failed to administer medication within the accepted standards
23 of nursing practice in the following respects:

24 A. On or about July 21, 2009, Respondent mistakenly administered Patient 2's
25 medication to Patient 1.¹ Patient 1 is a 75-year-old male who had a physician's order for 15 mg
26 of Morphine Sulphate (Extended Release "ER") by mouth, twice per day for pain. Patient 2 had a

27 _____
28 ¹ The patient names will be released to Respondent pursuant to a request for discovery.

1 physician's order for 100 mg of Morphine Sulfate ER, by mouth. Respondent immediately
2 reported the medication administration error to the Director of Nurses after he realized that a
3 medication error had been made.

4 B. On or before November 10, 2008, a pharmacy consultant observed Respondent
5 during the medication pass. The pharmacy consultant observed the following:

6 1. Respondent failed to knock on the door prior to entering a patient's room.
7 Respondent did not attempt to identify the patient prior to administering medication.

8 2. Respondent administered medication to a patient in the hallway.

9 3. Respondent charted a patient's blood pressure based solely upon memory.

10 4. Respondent administered medication to a patient outside of the two hour
11 window, as prescribed by the physician.

12 5. Respondent administered medication to a patient and did not check to see
13 if the patient had swallowed the medication.

14 6. Respondent failed to lock the medication cart, left expired medication on
15 top of the medication cart, and left the Medication Administration Records (MAR) open and
16 visible.

17 7. Respondent administered medication at a time different from the time
18 prescribed by the physician and failed to chart the administration of the medication on the MAR.

19 8. Respondent failed to wash his hands prior to the administration of
20 medication to a patient.

21 C. On or about December 6, 2008, Respondent received progressive discipline for
22 the careless administration of medication which resulted in the loss of a Fentanyl patch.

23 D. On or before December 8, 2008, a pharmacy consultant observed Respondent
24 during a medication pass. The pharmacy consultant observed the following:

25 1. Respondent left the medication cart unlocked outside of room 14, with
26 the keys on top of the cart.

27 2. Some of the juice containers were not labeled and dated.
28

3. Respondent failed to wash his hands before and after performing an eye glucose tolerance test on a patient. Respondent prepared medication for the next patient without washing his hands.

4. Respondent provided an inhaler to a patient and failed to allow the patient to wait for one minute between puffs.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Incompetence)

14. Respondent has subjected his license to disciplinary action under section 2761, subdivision (a)(1), on the grounds of incompetence based on the act and /or omission set forth in paragraph 13, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 739117, issued to Hien Trung Dang;

2. Ordering Hien Trung Dang to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: April 10, 2013

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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